National Labor Relations Board Weekly Summary of



NLRB Cases

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Press Release (R-2681): NLRB Simplifies and Encourages E-Filing

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Asher Candy, Inc. and Sherwood Brands, Inc. LLC, a Single Employer (29-CA-26761; 353 NLRB No. 95) New Hyde Park, NY and Rockville, MD Feb. 19, 2009. The Board adopted the administrative law judge's Order awarding backpay pursuant to a compliance specification. Noting that the Respondents did not appear at the hearing, the Board found that no evidence has been presented to refute any of the allegations in the specification. The Board concluded that the Respondents did not establish that the backpay or severance pay amounts set forth in the specification were inconsistent with the terms of the governing collective-bargaining agreement, nor did the Respondents otherwise present evidence supporting any defenses that the amounts set forth in the specification were inaccurate in any respect. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Adm. Law Judge Steven Davis issued his supplemental decision June 18, 2008.

Green Valley Manor, L.L.C. (14-CA-29124, et al.; 353 NLRB No. 92) St. Louis, MO Feb. 17, 2009. The Board, affirming the administrative law judge, found that the Respondent, a nursing home, violated Section 8(a)(3) of the Act by discharging three employees for their participation in a union organizing campaign and violated Section 8(a)(1) by interrogating employees and by calling police in response to union handbilling. Reversing the judge, the Board found that the Respondent did not violate Section 8(a)(3) by discharging Rashanda Barfield. The Board found that, even if the General Counsel proved union activity was a motivating factor in the discharge, the Respondent proved it would have discharged Barfield anyway. The Board noted that Barfield, a certified nursing assistant, was guilty of serious misconduct in leaving the nursing home five times in one morning while on duty without notifying her charge nurse and in falsely denying her misconduct when confronted by a manager. The Board also found that Barfield's discharge was consistent with the Respondent's past disciplinary practice. Finally, the Board found, rejecting a Respondent contention, that an unfair labor practice charge was valid notwithstanding that the employee filing the charge testified she did not read the charge and lacked knowledge regarding many of the charge's allegations. The Board noted that the Board's rules require a charging party to sign the charge, but explained that the purpose is to deter abuse of Board processes by subjecting the charging party to criminal sanctions for filing a charge containing false allegations, that the employee here subjected herself to such sanctions by signing the charge, and that the charge was therefore valid. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Charges filed by Patricia Baker, Paris Banks, and Rashanda Barfield, individuals; complaint alleged violations of Section 8(a)(1) and (3). Hearing at St. Louis, Dec. 10-12, 2007. Adm. Law Judge Lawrence W. Cullen issued his decision May 22, 2008.

Trump Marina Associates, LLC d/b/a Trump Marina Hotel Casino (4-CA-35334, 35395, and 4-RC-21278; 353 NLRB No. 93) Atlantic City, NJ Feb. 17, 2009. The Board adopted the administrative law judge's findings that the Respondent violated Section 8(a)(1) of the Act and engaged in objectionable conduct by: interrogating employees regarding their union sympathies; threatening that supervisors would no longer grant employees' requests for time off, approve schedule changes, or correct no-call/no-show designations; and threatening that employees would lose their jobs if they selected the Union to represent them. The Board also adopted the judge's conclusions that the Respondent violated Section 8(a)(3) and (1) and engaged in objectionable conduct by issuing disciplinary warnings and suspensions to a prominent union supporter. The Board reversed the judge's dismissal of the allegation that the Respondent violated Section 8(a)(1) by a supervisor's statements that management would not negotiate with the Union. Finally, the Board adopted the judge's dismissal of all of the other alleged Section 8(a)(1) violations. Based on the violations and objectionable conduct found, the Board adopted the judge's recommendation to set aside the election results. Having done so, the Board found it unnecessary to pass on the Union's cross-exceptions to the judge's overruling of several objections alleging additional acts of election interference. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Charges filed by Auto Workers International; complaint alleged violations of Section 8(a)(1) and (3). Hearing at Philadelphia, Oct.15-18, 2007. Adm. Law Judge Earl E. Shamwell Jr. issued his decision July 18, 2008.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Sheet Metal Workers Local 85 (Price Industries, Inc.) Atlanta, GA Feb. 17, 2009. 10-CB-8770; JD(ATL)-03-09, Judge Keltner W. Locke.

Flaum Appetizing Corp. (Industrial Workers of the World Local 460/640 a/k/a Industrial Workers of the World, New York City General Membership Branch) Brooklyn, NY Feb. 18, 2009. 29-CA-28502, et al.; JD(NY)-08-09, Judge Raymond P. Green.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Hartzheim Dodge, Inc., d/b/a Hartzheim Dodge Hayward, Hayward, CA, 32-RC-5577, Feb. 19, 2009 (Chairman Liebman and Member Schaumber)

DECISION AND ORDER [overruling Petitioner's Objection 7]

Promoco Manufacturing Co., West Haven, CT, 34-RC-2279, Feb. 19, 2009 (Chairman Liebman and Member Schaumber)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND ORDER [remanding proceeding to Regional Director for further appropriate action]

Colgate Scaffolding and Equipment Corp., Bronx, NY, 2-RC-23327, Feb. 18, 2009

DECISION AND DIRECTION [that Regional Director open and count ballot]

Golyan Enterprises, LLC, Queens, NY, 29-RC-11633, Feb. 18, 2009

(In the following cases, the Board granted requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Specialty Healthcare and Rehabilitation Center of Mobile, Mobile, AL, 15-RC-8773, Feb. 19, 2009 (Chairman Liebman and Member Schaumber)

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Robinson Aviation (RVA), Inc., Miami, FL, 12-RC-9349, Feb. 18, 2009
(Chairman Liebman and Member Schaumber)

Elmhurst Care Center, East Elmhurst, NY, 29-RM-939, Feb. 19, 2009
(Chairman Liebman and Member Schaumber)

Securitas Security Services UAS, Inc., Torrence, CA, 31-RD-1579, Feb. 19, 2009
(Chairman Liebman and Member Schaumber)

Miscellaneous Board Decisions and Orders

CERTIFICATION OF REPRESENTATIVE AS BONA FIDE UNDER SECTION 7(B) OF THE FAIR LABOR STANDARD ACT OF 1938

City of El Monte, El Monte, CA, 21-WH-20, Feb. 20, 2009
